



Legislative Fiscal Bureau

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November 12, 2003

TO: Members
Joint Committee on Finance

FROM: Bob Lang, Director

SUBJECT: Senate Bill 305/Assembly Bill 654: Modifications to State Tax Incremental Financing (TIF) Law and Granting Counties Authority to Create TIF Districts in Certain Towns

Senate Bill 305 (SB 305) was introduced on November 5, 2003, and referred to the Committee on Economic Development, Job Creation, and Housing. SB 305 was recommended for passage by the Committee on a vote of 5 to 0 on November 6, 2003. The bill was referred to the Joint Committee on Finance on November 11, 2003.

Assembly Bill 654 (AB 654) was introduced on November 10, 2003, and referred to the Joint Committee on Finance on November 11, 2003.

CURRENT LAW

Tax incremental financing (TIF) is a mechanism for funding development and redevelopment projects. City and village governments may create a TIF district if 50% or more of the proposed district's area is "blighted," in need of rehabilitation or conservation work, or suitable for industrial sites. Property that was vacant for the seven years preceding creation of a TIF district cannot comprise more than 25% of the district's area, unless the district is created to promote industrial development. Land acquired through condemnation is excluded from this requirement. An area designated as suitable for industrial sites must be zoned for industrial use both at the time the TIF district is created and throughout the life of the project. Currently, cities and villages have created 791 TIF districts in the state.

Once a TIF district has been created, a "tax incremental base value" is established for property within the district at the time it was created. The base value includes the equalized value of all taxable property and the value of municipally-owned property, as determined by the Department

of Revenue (DOR). The "tax increment" equals the general property taxes levied on the value of the TIF district in excess of its base value (this is the "value increment"). The amount equals the value increment multiplied by the tax rate for all taxing jurisdictions--municipal, county, school district, technical college district, and special purpose districts. Therefore, tax increments can only be generated by an increase in the equalized value of taxable property within a TIF district.

Joint Review Board. A municipality that intends to create a TIF district or amend a project plan must convene a joint review board. The joint review board consists of one member representing each taxing jurisdiction that can levy taxes on property within the TIF district--school and technical college districts, county, and city or village--and one public member. All members to the board must be appointed and the board's first meeting must be held within 14 days after notice of the public hearing on the proposed TIF district or plan amendment. The public member and board chair are selected by a majority of the board members. No TIF district can be created and no plan can be amended unless approved by a majority vote of the board within 30 days after a resolution is adopted. Administrative support for the board is provided by the affected municipality.

Eligible Project Costs. The TIF district project plan must list and estimate the project costs of improving the district. All project costs must directly relate to the elimination of blight or directly serve to rehabilitate or conserve the area or to promote industrial development, whichever is consistent with the district's purpose. Project costs include, but are not limited to, costs related to capital development (such as public works or improvements), environmental remediation, removal of lead contamination from buildings and infrastructure, financing, real property assembly, professional services, imputed administrative services, and organizational activities (such as the cost of preparing environmental impact statements).

Expenditure Period. For TIF districts created after September 30, 1995, project expenditures must be made within seven years after the creation of the TIF district. For districts created before October 1, 1995, project expenditures can be made up to 10 years after the district is created. Costs incurred as a result of condemnation or authorized by an amended project plan are not subject to these limitations.

Allocation of Tax Increments and Project Termination. Regardless of the time period allowed for TIF project expenditures, no annual allocation of tax increments may occur longer than: (1) 23 years after the date of its creation, if the TIF district was created after September 30, 1995; or (2) 27 years after the date of its creation, if the TIF district was created before October 1, 1995.

A TIF district terminates when the earliest of the following occurs: (1) all project costs of that district are reimbursed through the receipt of tax increments; (2) the local government body, by resolution, dissolves the district; and (3) for districts created after September 30, 1995, 16 years after the final project cost is incurred or, for districts created before October 1, 1995, 20 years after the final project cost is incurred.

Under one circumstance, a TIF district does not have to be terminated when all project costs

have been reimbursed. Under this circumstance, the tax increments of the TIF district that has paid off its project costs could be shifted to pay off project costs of another TIF district. If both TIF districts were created before October 1, 1995, (or before October 1, 1996, for first class cities) and have the same overlying taxing jurisdictions, one district may allocate positive tax increments for up to 10 years to another district that has yet to pay off its aggregate project costs under its project plan.

SUMMARY OF BILLS

SB 305/AB 654 would make the following modifications to state TIF laws.

County TIF Authority. SB 305/AB 654 would provide counties that were completely outside of a metropolitan statistical area before the 2000 census authority to exercise all powers of a city or village related to the creation of TIF districts. If a county exercises this authority, the county board would be subject to the same duties as a city's common council and the same duties and liabilities as a city under state TIF law (villages already have all of the powers of cities under the TIF law, and this memorandum generally refers to the law as applying to cities and villages; the bill would add counties for certain limited uses of TIF authority). A county that wishes to create a TIF district could only do so in a town that is contiguous to a city or village and whose board has approved the creation of such a district. In addition, before a county could create such a TIF district both of the following would have to occur: (a) the common councils of every city that is contiguous to the town and the village boards of every village that is contiguous to the town would have to adopt resolutions approving the creation of a tax incremental district in the town; and (b) the town and every city and village that is contiguous to the town would have to enter into a cooperative plan boundary agreement.

The bill would extend the public purpose finding under the original 1975 TIF law to include the TIF authority provided to counties under the bill.

Eligible Project Costs. Under current law, eligible project costs are those costs that can be repaid with property tax revenues associated with the annual tax increments generated in the TIF district. SB 305/AB 654 would repeal the current law restriction that eligible project costs cannot include estimated or actual expenditures or obligations made by the city or village for newly-platted residential development for TIF districts for which a project plan was approved after September 30, 1995. The bill would exclude from the definition of eligible costs any cash grants made by the city or village to owners, lessees, or developers of land that is located within the TIF district, unless the grant recipient has signed a development agreement with the city. A copy of the agreement would have to be sent to the appropriate joint review board or, if that joint review board has been dissolved, retained by the city or village in the official records for that TIF district. In addition, if the city or village anticipates that the proposed TIF district project costs may include cash grants made by the city or village to owners, lessees, or developers of land that is located within the proposed district, the city would be required to include a statement in the public notice of the hearing on the creation of the district indicating that such grants may be made.

The bill would include as eligible costs any payments made to a town that relate to the property taxes levied on any recently annexed territory to be included in a TIF district, as allowed under the bill.

Mixed-Use Development TIF Districts. Under current law, before a TIF district may be created, the city or village legislative body creating the district must adopt a resolution that includes findings that the not less than 50% of the real property within the district is at least one of the following: (a) blighted; (b) in needed of rehabilitation or conservation work; or (c) suitable for industrial sites and zoned for industrial use. The bill would add property that is suitable for mixed-use development to this list. Mixed-use development would be defined as development that contains a combination of industrial, commercial, or residential uses, except that lands proposed for newly-platted residential use, as shown in the project plan, may not exceed 35%, by area, of the real property within the district.

Annexed Property Within TIF Districts. SB 305/AB 654 would specify that the boundaries of a TIF district could not include any annexed territory that was not within the boundaries of the city or village on January 1, 2004, unless one of the following occurs: (a) three years have elapsed since the territory was annexed by the city or village; (b) the city or village enters into a cooperative plan boundary agreement with the town from which the territory was annexed; or (c) the city or town enter into another kind of agreement relating to the annexation. Notwithstanding these conditions, the city or village may include territory that was not within the city or village boundaries on January 1, 2004, if the city or village pledges to pay the town an amount equal to the property taxes levied on the territory by the town at the time of the annexation for each of the next five years. The bill would also specify that if, as a result of such a pledge by the city or village to compensate the town for the annexation for each of the next five years, the city or village includes territory that was not within the city's or village's boundaries on January 1, 2004, the pledge by the city or village is enforceable by the town from which the territory was annexed.

Vacant Property Within TIF Districts. SB 305/AB 654 would exclude property that is contaminated by environmental pollution as a type of vacant property that would be included under the current law limitation that property that has been vacant for seven years may not comprise more than 25% of the area in a TIF district unless the district is suitable for industrial development and the district project plan promotes such development.

Limitations on Taxable Value Within TIF Districts. SB 305/AB 654 would modify the current law limitations on the amount of taxable value a city or village may have in one or more TIF districts prior to the creation of a subsequent district. Under current law, no new TIF district may be created in a city or village unless there is a finding that one of the following thresholds is met: (a) the equalized value of the proposed district plus the equalized value of all existing TIF districts within the city or village does not exceed 7% total equalized value of the city or village; or (b) the equalized value of the proposed district plus the value increment of all existing TIF districts (this excludes the base value) within the city or village does not exceed 5% of the municipality's total equalized value. Under the bill, a city or village could create a new TIF district if there is a finding

that the equalized value of the proposed district plus the value increment of all existing districts does not exceed 12% of the total equalized value of property within the city or village. The bill would also extend this limit to any proposed amendment to a TIF district that adds territory to the district. Any proposed amendment to an existing TIF district that subtracts territory from that district would not be subject to these findings.

In calculating the limitations on the amount of taxable value a city or village may have in one or more TIF districts, the calculation would have to be based on the most recent equalized value of taxable property of the proposed district, as certified by DOR, before the date on which a resolution is adopted creating the proposed district. DOR could not certify the tax incremental base of a TIF district before the Department reviews and approves the findings that the city or village creating the district is within these statutory limitations.

Amended TIF District Project Plans. SB 305/AB 654 would allow TIF district project plans to be amended at any time for up to four times during the district's existence in order to modify the district boundaries to add territory to the district that is contiguous to its boundaries and is served by the public works or improvements that were created as part of the district's project plan. Under current law, a city or village may amend a district plan for these purposes only once and the amendment must occur during the seven-year period after the original TIF district was created. The bill would also allow TIF district project plans to be amended to subtract territory from the district in a way that does not remove contiguity from the district.

The bill would delete a current law provision that limits the City of Oconomowoc to only one amendment to a project plan to add territory to the district within 11 years after the district is created and specifies the time periods for which expenditures resulting from the amendment would have to occur and annual tax increments could be allocated. As a result, the general provisions related to TIF district amendments, as modified under the bill, would apply.

Creation of TIF Districts. SB 305/AB 654 would specify that a resolution adopted by city or village creating a TIF district must declare that the district is a blighted area district, a rehabilitation or conservation district, an industrial district, or a mixed-use district, based on the identification and classification of the property included within the district. If the district is not exclusively blighted, rehabilitation or conservation, industrial, or mixed use, this declaration would have to be based on which classification is predominant with regard to the area included in the district.

Under current law, joint review board approval of a resolution to create a TIF district or amend a TIF district project plan can occur no less than 10 days nor more than 30 days of receiving the corresponding resolution. The bill would change this so that the approval must occur within 30 days of receiving the resolution. The bill would also specify that the board could not approve a resolution creating a TIF district or amending the project plan of an existing TIF district unless the board's approval contains a positive assertion that, in the board's judgment, the development described in the documents the board has reviewed would not occur without the creation of the TIF district.

Current law specifies that a public hearing on a proposed project plan for a TIF district must be held by a city or village at least 30 days prior to the adoption of the resolution creating the TIF district. SB 305/AB 654 would lower the minimum time period for holding the hearing to 14 days before adoption of the resolution.

Joint Review Board Requirements. SB 305/AB 654 would modify the current law provisions relating to the creation of TIF district joint review boards as follows:

a. Provide cities and villages the power to create a standing joint review board that may remain in existence for the entire time that any tax incremental district exists in the city or village and specify that all of the provisions that apply to a temporary joint review board (the current type, as amended by the bill) for a tax incremental district, which is made up of representatives from all the overlying taxing jurisdictions, would apply to the standing joint review board.

b. Allow a city or village to disband this standing joint review board at any time (temporary boards can be disbanded by majority vote after the approval or rejection of a TIF district proposal).

c. Modify the current law references to a joint review board to refer, instead, to a temporary joint review board and specify that any city or village that seeks to create a TIF district would have to convene either a temporary joint review board or a standing joint review board.

d. Specify that if a TIF district is proposed to be created by a county in a town, the temporary or standing joint review board would have to include one representative chosen by that town. In addition, the joint review board for that district would be required to have an additional representative who would be chosen by the city or village that has the longest contiguous border with the town.

e. Specify that if a proposed TIF district would be located in a union high school district, the school board representative seat on the board would be held by two representatives, each of whom would have one-half of a vote. Specify that one of the representatives would be chosen by the union high school district and one by the elementary school district, both of which have the power to levy taxes on the property within the proposed TIF district.

f. Specify that if the proposed TIF district is made up of more than one union high school district or more than one elementary school district, the union high school district or elementary school district with the greatest value within the proposed TIF district would choose the representative to the temporary or standing joint review board.

g. Require that the joint review board representative chosen by a school district would have to be the president of the school board, or his or her designee. If the school board president appoints a designee, he or she would have to give preference to the school district's finance director or another person with knowledge of local government finances.

h. Require that the joint review board representative chosen by the county would have to be the county executive or, if the county does not have a county executive, the chairperson of the county board, or the executive's or chairperson's designee. If the county executive or county board chairperson appoints a designee, he or she would have to give preference to the county treasurer or another person with knowledge of local government finances.

i. Require that the joint review board representative chosen by the city would have to be the mayor, city manager, or his or her designee. If the mayor or city manager appoints a designee, he or she would have to give preference to the person in charge of administering the city's economic development programs, the city treasurer, or another person with knowledge of local government finances.

j. Require that the joint review board representative chosen by the technical college district would have to be the district's director or his or her designee. If the technical college district's director appoints a designee, he or she would have to give preference to the district's chief financial officer or another person with knowledge of local government finances.

k. Require the joint review board to notify the governing body of every local governmental unit that is not represented on the board, and that has the power to levy taxes on property within the proposed TIF district, prospectively of meetings of the board and of the agendas of each meeting for which notification is given

Determination of Tax Increment and Tax Incremental Base. SB 305/AB 654 would require that the application for certification of the original or amended TIF district tax incremental base state the percentage of territory within the TIF district that the local legislative body estimates would be devoted to retail business at the end of the maximum TIF district expenditure period if that estimate is at least 35%.

The clerk of the city or village creating a TIF district would be required to submit an application form requesting that DOR redetermine the district's tax incremental base for an amended project plan to DOR on or before December 31 of the year in which the changes in the project plan take effect (similar requirements apply under current law to the initial creation of a TIF district). In recalculating the base value DOR would be required to include the value of real property owned by the city or village that is not used for police and fire buildings, administrative buildings, libraries, community and recreational buildings, parks, streets and improvements within any street right-of-way, parking facilities, or utilities (current law excludes the same types of property from the determination of the initial tax incremental base). For TIF district amendments that add property, the redetermined tax incremental base value would only apply if that value exceeds the district's original tax incremental base value.

In addition, if a city or village adopts an amendment to the original project plan for any district that subtracts territory from the district, the tax incremental base would be redetermined by subtracting from the district's tax incremental base the taxable value of the property being removed from the district.

Allocation of Tax Increments. SB 305/AB 654 would amend the allowable period for which DOR could annually authorize the allocation of tax increments as follows: (a) specify that for TIF districts created after September 30, 1995, and before October 1, 2004, tax increments could be allocated to the city or village that created the TIF district for up to 23 years after the district is created (this establishes an end point for current law treatment of new TIF districts); (b) specify that for a TIF district created on or after the effective date of the bill that is at least predominantly suitable for mixed-use development or industrial sites, tax increments could be allocated to the city or village creating the district for up to 20 years after the district is created; and (c) specify that for a TIF district created on or after the effective date of the bill that is not subject to the 20-year limit on the allocation of tax increments because the district is not at least predominantly suitable for mixed-use development or industrial sites, tax increments could be allocated to the city or village creating the district for up to 27 years after the district is created.

TIF District Expenditure Periods. SB 305/AB 654 would delete the current law requirement that TIF districts generally cannot incur expenditures no later than either seven or 10 years after the district is created. Current allowable expenditure periods depend on when the district was created or if a district project plan was amended. Instead, the bill would allow expenditures to be incurred until two years prior to the required termination date of that district. As a result, the allowable expenditure period would be extended to either 18 years or 25 years, depending on the type of TIF district created.

Donor TIF Districts. Under current law, before a TIF district terminates, a city or village may amend the district project plan of certain TIF districts to allocate positive tax increments generated by that district (donor) to another tax district (recipient) created by that city or village if certain conditions are met. For these districts (districts created prior to October 1, 1995, or prior to October 1, 1996, for a TIF district created in first class city), SB 305/AB 654 would require as an additional condition that the donor TIF district be able to demonstrate, based on the positive tax increments that are currently generated, that it has sufficient revenues to pay for all project costs that have been incurred under the project plan for that district and sufficient surplus revenues to pay for some of the eligible costs of the recipient TIF district. Also, for these districts, the bill would delete the current law provision that allows the city or village to determine the portion of the donor district's positive tax increment that is in excess of the increment necessary to pay that district's project costs in that year that shall be allocated to the recipient district. The requirement that the city or village inform DOR of the amounts allocated would also be deleted.

SB 305/AB 654 would also extend the authority of cities and villages to allocate tax increments among districts to all TIF districts not currently eligible to do so. Not later than the date on which a TIF district terminates, a city or village planning commission could amend the project plan of a TIF district to allocate positive tax increments generated by that district to another TIF district created by that planning commission if both of the following conditions are met:

- a. the donor TIF district, the positive tax increments of which are to be allocated, and the recipient TIF district have the same overlying taxing jurisdictions; and

- b. the allocation of tax increments is approved by the joint review board.

The recipient district may use the allocation of tax increments from the donor only if the project costs in the recipient district are used to create, provide, or rehabilitate low-cost housing or to remediate environmental contamination or if the recipient district was created upon a finding that not less than 50%, by area, of the real property within the district is blighted or in need of rehabilitation. The allocation of positive tax increments from a donor district to one or more recipient districts could not be made unless the donor district has first satisfied all of its current-year debt service and project cost obligations. The city or village that created the donor district could not request or receive an extension for the life of a donor tax incremental district.

The bill would extend, to the newly eligible districts, the current law provisions that exclude any amounts allocated by a donor district to another district from having to be deposited in a special fund for the donor district. Also, any amounts allocated from one district to another would not be included in the calculation used in determining when the donor district is to be terminated, until the recipient district has paid off its project costs.

Termination of Districts. SB 305/AB 654 would extend the required termination date of a district from 23 years to 27 years for districts created beginning October 1, 2004, and established on the finding that not less than 50%, by area, of the real property within the district is a blighted area or in need of rehabilitation or conservation work. The bill would reduce the required termination date of a district from 23 years to 20 years for districts created beginning October 1, 2004, and established on the finding that not less than 50%, by area, of the real property within the district is suitable for industrial sites or mixed-use development.

During the 18th year of an industrial or mixed-use district's existence, the bill would allow the city or village that created the district to request that the joint review board extend the life of the district for an additional five years. The bill would specify that, along with any request for a five-year extension, the city or village may provide the joint review board with an independent audit that demonstrates that the district is unable to pay off its project costs within the 20 years after the district is created. The joint review board would be provided authority to deny or approve a request if the request does not include the independent audit. The board would be required to approve the request if the request includes the independent audit. If the joint review board extends the district's life, the district would be required to terminate at the earlier of: (a) the end of the extended period (25 years); or (b) when the district has paid off all of its project costs through the receipt of tax increments.

The bill would also reduce the required termination date of a district in the Village of Gilman (Taylor County) that was created prior to October 1, 1995, from 38 years to 35 years (a technical change to the bill would be needed to implement this provision).

Reporting Requirements. SB 305/AB 654 would increase the time after a district is terminated that cities and villages would have to provide written notice to DOR of the district's

termination from 10 days to 60 days. The bill would also require that after the notice of termination of a TIF district is transmitted, DOR and the city or village would have to agree on a date by which the city or village would send to DOR, on a form prescribed by the Department, all of the following information related to the terminated TIF district: (a) a final accounting of all expenditures made by the city or village; (b) the total amount of project costs incurred by the city or village; (c) the total amount of positive tax increments received by the city or village; and (d) the total amount of project costs, if any, not paid with tax increments that became obligations of the city or village after the district was terminated. If a city or village does not send the information to DOR within the agreed time limit, DOR would not be allowed to certify the tax incremental base of any new or modified TIF district in the city or village until the form is sent. Under this circumstance, DOR would be exempted from the current law requirement that it certify the tax increment base as soon as reasonably possible after a TIF district is created or amended.

Substantial Compliance. The bill would specify that substantial compliance by a city or village with the statutory requirements relating to the powers of cities and villages in creating TIF districts, the creation of TIF districts (except those requirements related to the approval by the local legislative body of a project plan and resolution and the provision of specific information and projections to the joint review board), the joint review board, and the application to DOR for establishing a tax incremental base would be sufficient to give effect to any proceedings conducted by the city or village if, in DOR's opinion, any error, irregularity, or informality that exists in the city's or village's attempt to be in compliance does not affect substantial justice. Further, if DOR determines that a city or village is in substantial compliance, DOR would have to determine the tax incremental base, allocate tax increments, and treat the district in all other respects as if these statutory requirements have been complied with, based on the date that the resolution creating the TIF district is adopted.

Environmental Remediation TIF Districts (ER-TIFs). Under the bill, if a city or village annexes territory from a town and if the town is using an ER-TIF tax increment, as allowed under current law, to remediate environmental pollution on all or part of the territory that is annexed, the city or village would be required to pay to the town that portion of the eligible costs that are attributable to the annexed territory. The city or village, and the town, would be required to negotiate an agreement on the amount that must be paid. DOR would be required to redetermine the ER-TIF tax incremental base of any parcel of real property included in the original tax incremental base if part of that parcel is annexed.

Effective Dates and Initial Applicability. The bill's general effective date would be the first day of the fourth month beginning after publication. However, many of the bill's provisions would first become effective on October 1, 2004. In addition to the delayed effective date, many of the bill's provisions first apply to TIF districts that are created on October 1, 2004, or to a TIF district project plan amendment that takes effect on October 1, 2004. The attachment to this memorandum provides a detailed listing of the effective dates and initial applicability provisions that affect each of the changes made by the bill.

FISCAL EFFECT

While TIF districts established under current law are created and managed at the local level, the Department of Revenue (DOR) carries out the state's limited administrative functions related to the districts. Central and regional office staff in DOR's Bureau of Property Tax and Bureau of Local Government Services carry out these administrative functions.

For each newly created or amended TIF district, the Department reviews the TIF project plan, the required local resolutions related to the creation of the district, the district boundary descriptions and parcel lists, the public notices of affected landowners, and public hearing actions. Subsequent to these reviews, the Department is required to determine the equalized value of each class of property within the TIF district in order to certify the value base of the TIF district and the value increment (the equalized value of property in the District less the base value of the District). Annually, the Department certifies the value increment for each existing TIF district and works with municipalities to determine the share of each taxing jurisdiction's levy that is to be allocated to the TIF district.

Under existing TIF law, approximately 60%, or 349, of the 587 city and village governments in the state have created TIF districts. DOR estimates that approximately 2.5 staff positions are required to carry out the Department's administrative functions associated with these TIF districts. DOR indicates that, in addition to the work associated with the annual certification of the TIF district value increment, approximately 61 new TIF districts (17.5% of the 349 municipalities that have created a TIF district) are created each year and 24 TIF districts (7% of the 349 municipalities that have created a TIF district) are amended each year. As a result, on average, the Department works on a total of 85 new or amended TIF districts each year.

DOR's fiscal estimate to the bill indicates that provisions in the bill will likely lead to an increase in the number of active TIF Districts. DOR assumes that the number of TIF districts will increase because significantly more TIF Districts will be created and both existing and newly-created TIF districts will remain in effect for longer periods of time than are currently experienced. The Department indicates that the following bill provisions will likely increase the number of TIF districts created each year: (a) the expansion of the limit on the amount of municipal value that can be within TIF districts; (b) providing counties the authority to establish TIF districts in certain towns; (c) allowing TIFs to exist for mixed-use development purposes; and (d) allowing TIF district tax increments to be used for newly-platted residential development.

DOR indicates that the provisions in the bill that will likely increase TIF district expenditures, which may lengthen the number of years TIF districts need to remain active relative to current experience, include: (a) the increase in the length of the expenditure period from seven years to within two years of a TIF project's termination date; (b) the allowing of TIF tax increments to be used to pay the newly-eligible costs of newly-platted residential developments; (c) the increase in the number of times a TIF district project plan may be amended from one to four times during a district's existence; (d) the changes related to donor districts, which could increase the likelihood that cities, villages, or counties will use this authority; (e) the allowing of TIF tax

increments to be used to compensate towns for lost property taxes on annexed property included in the TIF district; and (f) the increase in TIF district reporting requirements.

DOR's fiscal estimate does acknowledge that certain provisions in the bill could reduce TIF district expenditures. For example, DOR notes that requiring any annexation of property by a city or village that is to be included in a TIF district be subject to a cooperative boundary agreement may result in smaller TIF district areas, if such agreements cannot be reached and thus such land cannot be included in the district. DOR indicates that allowing longer TIF district expenditure periods could allow cities, villages, or counties to delay certain expenditures to later in a project, which could reduce the financing costs associated with the district project. Currently, because these costs generally must occur in the first seven years of the project, cities and villages borrow funds to pay the costs in the early years of the project and pay off the borrowed funds with the tax increments generated in the later years of the project. DOR also indicates that reducing the allowable period for which an industrial TIF could exist from 23 years to 20 years could reduce the time period that such TIF districts remain active. However, they note that the 20-year period may not have much of an effect on such districts, given that the current average life of such TIF districts is 12.4 years.

DOR expects that, over time, the number of TIF districts will increase by approximately 60%, from the current 791 districts to over 1,200 districts. Again, this would largely be due to the creation of a greater number of districts and the increased length of the life of TIF districts resulting from the bill. Therefore, the Department would be required to conduct project plan reviews, review the necessary documentation, and certify the base of a greater number of proposed TIF districts each year. In addition, DOR indicates that the workload associated with its current responsibilities of determining annual tax increments and working with local governments to allocate the increments will also increase due to the larger number of active districts.

DOR estimates that the bill would result in 114 additional TIF districts being created, or TIF district territories being amended, each year, which would result in a 134% increase from the current level of 85 that are required each year. DOR indicates that its estimate that 114 additional TIF districts could be created or amended results from: (a) its assumption that only 20 counties would be eligible to create a TIF district under the bill and each eligible county would create only one district; (b) that only one-half (46) of the 92 cities and villages that are currently above the 5% and 7% limits on the amount of value that can be included in TIF districts would each create one additional district; (c) its assumption that only 5% (30) of the 587 cities and villages would create a mixed-use TIF district as allowed under the bill; and (d) that the provision increasing the number of times districts can amend the territory of the district would result in a 75% (18) increase from current level of 24 amendments per year. In addition, the Department estimates that bill would result in an additional 50 project plan amendments and tax increment allocation amendments each year, which would result in a 156% increase from the current level of 32 that are required each year.

DOR indicates the bill would also provide the Department with additional responsibilities relative to districts, which could also increase the Department's workload. The bill would require DOR to make a determination as to whether a proposed, or amended, district complies with the new

12% limit on the amount of taxable property a city or village may have within a TIF district prior to a new district being created. The bill would also require the Department to determine whether a city, village, or county would be within substantial compliance with the procedures associated with creating a TIF district. In addition, DOR indicates that the Department will compile the aggregate data from the TIF district termination reports required under the bill. Finally, the Department indicates that the bill would also require the Department to revise its training and application materials to reflect the provisions in the bill.

Due to the increased workload associated with DOR's current TIF-related responsibilities and the new Department responsibilities created under the bill, DOR indicates that the bill would increase Department costs by \$159,400 GPR and 3.0 GPR positions on an on-going basis and by \$25,200 GPR on a one-time basis to provide computer and furniture equipment for the additional staff.

Given the additional TIF-related authority provided under the bill, cities, villages, and counties are likely to make greater use of TIF financing as a development tool in the creation of new districts or the amendment of existing districts, or in the extension of the active life of TIF districts. Therefore, it is likely that DOR could incur additional workload associated with the bill. However, in the early years of having these new powers and authorities, cities, villages, and counties may make limited use of them. In addition, many of the proposed changes in local authority relative to TIF districts would not be effective until October 1, 2004. Therefore, the degree of additional Department workload associated with the bill may also be somewhat limited in the early years following passage of the bill. As use of these new TIF-related powers and use of TIF districts for new types of allowable development increases, the DOR workload could increase as local governments draw on the experience of successful TIFs created by the initial usages of the new powers and development types.

The bill would not provide any additional funding or staff to carry out the Department's functions required under the bill. Therefore, DOR would have to absorb any incremental workload created by the bill with existing staff.

Prepared by: Al Runde
Attachment

ATTACHMENT

Effective Dates and Initial Applicability Provisions

Statutory Section	Subject	Effective Date		First Applies		
		First Day of Fourth Month	10/01/04	All Districts First Day of Fourth Month	Districts Created on 10/01/04	Districts Amended on 10/01/04
59.57	County TIF Powers		X	X		
66.1105	Defines mixed-use development	X		X		
66.1105	Project costs -- payments to towns		X		X	X
66.1105	Project costs -- cash grants to developers		X		X	X
66.1105	Project costs -- newly-platted residential	X		X		
66.1105	Power to create standing joint review board		X	X		
66.1105	Hearings -- change to 14 days; notice of cash grants		X		X	
66.1105	District boundaries -- limits on annexed land		X		X	X
66.1105	Findings on land use -- include mixed-use development		X	X		
66.1105	Limit on new TIFs -- change test to 12%		X	X		
66.1105	TIF resolution -- declare type of TIF district		X		X	
66.1105	Plan amendments -- up to four times		X			X
66.1105	Plan amendment -- deletes Oconomowoc provision	X		X		
66.1105	Joint review board -- composition		X		X	
66.1105	Joint review board -- specific members	X			X	
66.1105	Joint review board -- UHS/K-8 split vote		X		X	
66.1105	Joint review board -- time limit; no development without TIF		X		X	X
66.1105	Joint review board -- time limit, special case		X		X	
66.1105	Joint review board -- notice to all affected governments		X		X	
66.1105	TIF base -- impact of failure to submit report to DOR		X		X	
66.1105	TIF base -- application includes retail percentage		X		X	X
66.1105	TIF base -- subtractions; add certain city-owned property		X		X	X

Statutory Section	Subject	Effective Date		First Applies		
		First Day of Fourth Month	10/01/04	All Districts First Day of Fourth Month	Districts Created on 10/01/04	Districts Amended on 10/01/04
66.1105	(5)(ce)	TIF base -- subtractions; add certain city-owned property		X		
66.1105	(5)(d)	TIF base -- DOR must review 12% test	X		X	
66.1105	(6)(a)3.	Termination date -- deletes Oconomowoc provision		X		
66.1105	(6)(a)4.	Termination date -- end point for 23-year time limit		X	X	
66.1105	(6)(a)7.	Termination date -- 20 years for mixed-use and industrial		X	X	
66.1105	(6)(a)8.	Termination date -- 27 years for other TIF types		X	X	
66.1105	(6)(am)1.	Expenditure period -- deletes seven-year limit		X		
66.1105	(6)(c)	Donor TIF districts -- adds cross-reference to new type	X		X	
66.1105	(6)(e)1.d.	Donor TIF districts -- current; must cover all donor project costs		X	X	X
66.1105	(6)(e)2.	Donor TIF districts -- current; deletes comparing to annual costs		X	X	
66.1105	(6)(f)	Donor TIF districts -- new procedure for all TIFs	X		X	
66.1105	(7)(a)	Termination date -- add cross-reference to new donors	X		X	
66.1105	(7)(am)	Termination date -- 27 years for blighted/rehabilitation TIFs		X		
66.1105	(7)(am)	Termination date -- 20 years for other TIF types		X	X	
66.1105	(7)(ar)	Termination date -- Village of Gilman		X	X	
66.1105	(8)(title)	Reporting requirements -- title change		X	X	
66.1105	(8)(a)	Reporting requirements -- 60-day notice of termination to DOR	X		X	
66.1105	(8)(c)	Reporting requirements -- new information in terminated TIFs		X	X	
66.1105	(8)(d)	Reporting requirements -- penalty for noncompliance		X	X	
66.1105	(15)	Allowing DOR to determine substantial compliance	X		X	
66.1106	(13)	ER-TIFs -- annexation from participating town	X		X	
Laws of 1975		TIF public purpose -- add counties	X		X	